

ECF CASE
JUDGE HELLERSTEIN

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

J & J SPORTS PRODUCTIONS, INC., as
Broadcast Licensee of the **May 5, 2007**
DeLaHoya/Mayweather Program,

PROPOSED FINDINGS OF FACTS
AND CONCLUSIONS OF LAW
REGARDING DAMAGES

Plaintiff,

-against-

Civil Action No. 07-CV-6527-AKH-FM
HON. ALVIN K. HELLERSTEIN

761 BLUE LAGOON CORP. d/b/a BLUE LAGOON
a/k/a BLUE 761 LAGOON a/k/a BLUE LAGOON
Defendants.

The issues of this action having been submitted and Default having been entered on November 19, 2007, Plaintiff presents its Findings of Facts and Conclusions of Law regarding the issue of Damages.

FINDINGS OF FACT

FIRST: The plaintiff, **J & J Sports Productions, Inc.**, is a California Corporation with its principal place of business located at 2380 So. Bascom Avenue Suite 200 Campbell, CA 95008.

SECOND: Defendant 761 BLUE LAGOON CORP. d/b/a BLUE LAGOON a/k/a BLUE 761 LAGOON a/k/a BLUE LAGOON with a principal place of business at Blue Lagoon Bar, 761 Burke Ave., Bronx, NY.

THIRD: Plaintiff held the exclusive right, by contract, to exhibit and/or distribute the May 5, 2006 DeLaHoya/Mayweather boxing program, in Defendants' geographical area. Pursuant to the

contract, Plaintiff entered into subsequent agreements with various entities in the State of New York, allowing them to publicly exhibit the program to their patrons.

FOURTH: Defendants 761 BLUE LAGOON CORP. d/b/a BLUE LAGOON a/k/a BLUE 761 LAGOON a/k/a BLUE LAGOON, did not purchase the broadcast rights to the DeLaHoya/Mayweather May 5, 2007 or its undercards.

SIXTH: As part of its normal business operation, Plaintiff engages in anti-piracy activities designed at protecting the legitimate purchasers of the bout. Plaintiff utilizes Agencies which hire auditors to visit non-subscribing establishments during the broadcast of the entire bout to determine whether any such establishments are illegally exhibiting the broadcast.

SEVENTH: On May 5, 2007 Defendant 761 BLUE LAGOON CORP. d/b/a BLUE LAGOON a/k/a BLUE 761 LAGOON a/k/a BLUE LAGOON was in operation in New York, New York, on the evening in question, and was a commercial establishment that had 1 television set.

EIGHTH: The auditor, Keith Rauscher, witnessed the exhibition of the event being viewed by thirty (30) patrons in Defendant commercial establishment, 761 BLUE LAGOON CORP. d/b/a BLUE LAGOON a/k/a BLUE 761 LAGOON a/k/a BLUE LAGOON on May 5, 2007.

NINTH: Since the Defendant herein did not purchase the licensing rights to the May 5, 2007 DeLaHoya/Mayweather program it *per se* indicates that the wilful and intentional acts were taken to intercept the program, thereby purposefully defrauding the Plaintiff of money.

TENTH: In so doing, the Defendant's display of the Event likely led to an increased number of patrons, and thus to an increase in profits.

CONCLUSIONS OF LAW

ELEVENTH: Plaintiff held the exclusive rights to distribute and/or exhibit the DeLaHoya/Mayweather program on May 5, 2007, in commercial establishments in Defendant's

geographical area.

TWELFTH: The Defendant willfully and for commercial gain intentionally exhibited the May 5, 2007, broadcast, in violation of 47 U.S.C. §605 and §553, as well as Plaintiff's rights.

THIRTEENTH: Plaintiff, J & J Sports Productions, Inc., in accordance with 47 U.S.C. §605 and §553, is entitled to statutory damages in an amount of up to \$110,000.00, for the willful and intentional exhibition of the May 5, 2007 DeLaHoya/Mayweather program at Defendant's commercial establishment.

FOURTEENTH: Plaintiff, J & J Sports Productions, Inc., is further entitled to litigation fees and interest on said sum of up to \$110,000.00 for the Defendant's willful and intentional exhibition of the May 5, 2007 DeLaHoya/Mayweather program and all its undercard bouts as set forth in the Motion for Default Judgment and documents in support thereof.

Dated: December 7, 2007
Ellenville, NY 12428

LONSTEIN LAW OFFICE, P.C.

/s/ Julie Cohen Lonstein
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served, on today's date via regular mail, postage prepaid, upon:

761 Blue Lagoon Corp.
761 Burke Ave.
Bronx, NY 10467-6611

/s/ Julie Cohen Lonstein
Julie Cohen Lonstein, Esq.